

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
MOLOKAI PUBLIC UTILITIES, INC.,) DOCKET NO. 2008-0115
WAI`OLA O MOLOKA`I, INC., and)
MOSCO, INC.)
)
For Temporary Rate Relief.)
_____)

ORDER APPROVING TEMPORARY RATE RELIEF FOR
MOLOKAI PUBLIC UTILITIES, INC. AND WAI`OLA O MOLOKA`I, INC.

FILED

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PUBLIC UTILITIES
COMMISSION

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ORDER APPROVING TEMPORARY RATE RELIEF FOR
MOLOKAI PUBLIC UTILITIES, INC. AND WAI`OLA O MOLOKA`I, INC.

By this Order, the commission approves temporary rate increases, subject to certain conditions, for MOLOKAI PUBLIC UTILITIES, INC. ("MPU") and WAI`OLA O MOLOKA`I, INC. ("Wai`ola").¹

I.

Background

A.

Utilities

1.

MPU

MPU, a Hawaii corporation, is a public utility authorized to provide water service in the Kaluakoi area on the west end of the island of Molokai. MPU was granted a certificate of public convenience and necessity ("CPCN") by the commission in Decision and Order No. 6834, filed on October 29, 1981,

¹MPU, Wai`ola and MOSCO, INC. ("Mosco") are collectively referred to as the "Utilities."

in Docket No. 4112. MPU provides drinking and irrigation water to the Kaluakoi Resort, Ke Nani Kai and Paniolo Hale Condominiums, Kaluakoi Villas, Papohaku Ranchlands and Moana Makani subdivisions, and Maui County parks. MPU's current user charge is \$3.18 per 1,000 gallons.

2.

Wai`ola

Wai`ola is a Hawaii corporation that is wholly owned by MOLOKAI PROPERTIES LIMITED, dba MOLOKAI RANCH ("MPL"). Wai`ola is a public utility authorized to provide water utility services to residential, commercial, and agricultural customers. Wai`ola was granted its CPCN in Decision and Order No. 12125, filed on January 13, 1993, in Docket No. 7122. Wai`ola services businesses, residences, churches and Maui County parks located in Maunaloa, Kualapuu, Kipu, Manawainui, and the Molokai Industrial Park areas on the island of Molokai. Wai`ola's current user charge is \$1.85 per 1,000 gallons.

3.

Mosco

Mosco, a Hawaii corporation, is a wholly owned subsidiary of Kaluakoi Sewer, LLC, which is an affiliate of MPL. Mosco is a public utility that provides wastewater service in its service area of Kaluakoi on the island of Molokai, pursuant to a CPCN issued by the commission in Decision and Order No. 7141, filed on July 15, 1982, in Docket No. 4444. Specifically,

Mosco operates the wastewater treatment facility located in the Kaluakoi Resort area that services businesses and residents in the Kaluakoi Resort, Ke Nani Kai and Paniolo Hale Condominiums, Kaluakoi Villas, Papohaku Ranchlands and Moana Makani subdivisions. Mosco currently charges all of its customer classes \$44.00 per month for wastewater service.

B.

Planned Termination of Utilities' Services

In late March 2008, MPL, pursuant to its announcement to cease all current business operations on Molokai, met with the commission to discuss the effect of its cessation of business on Molokai on its Utilities. At the meeting, MPL informed the commission that MPU and Wai'ola incurred substantial losses in 2007. MPL further stated that, due to the shutdown of MPL's other operations on Molokai, MPL would no longer be able to subsidize its utility companies, and it was planning for their disposal within six months.

By letter dated May 30, 2008, MPL later reduced its timeline for disposing of its utility companies. In the May 30, 2008 letter, MPL stated:

For a significant period of time, neither Wai'ola nor MPU has generated revenues sufficient to pay its operating expenses. On March 24 of this year, representatives of our parent company, [MPL,] met with the Public Utilities Commission to inform it that MPL would provide the financial support needed to cover these operating deficits only for a limited period of time. MPL sought the Commission's assistance in disposing of Wai'ola and MPU within six months.

Since that meeting, MPL has conducted meetings with Molokai resident associations, the Mayor of the County of Maui and representatives of the State of Hawaii in an effort to transfer the assets and operations of Wai'ola and MPU so that services would not be interrupted. We regret to say that those efforts have been unsuccessful. There is an obvious reluctance of those parties to take on the litigation with respect to water allocations and the other financial burdens associated with the operation of Wai'ola and MPU.

Recently a Supreme Court decision required MPU to re-apply to the State Commission on Water Resources for a permit to operate Well 17. This has confronted MPU with a dilemma. It does not have the funds to make that re-application, although it wishes to comply with the court's directive and to avoid any disruption of operations. This is an unsatisfactory situation that we lack the means to remedy.

While MPL was operating Molokai Ranch, the Ranch used water furnished by Wai'ola and MPU. MPL therefore provided Wai'ola and MPU with the funds necessary to cover the substantial deficit between the utilities' revenues and their operating costs. However, with the closing of the Ranch, Wai'ola and MPU have been advised by MPL that, after August of this year, MPL will cease providing them with funds. This will make it impossible for Wai'ola and MPU to continue in operation after August.

Although we have looked at the possibility of requesting rate increases sufficient to make Wai'ola and MPU self-sustaining, we simply do not have the funds necessary to go through such lengthy and costly proceedings.

We are therefore sending this letter to provide notice to the Commission, the County of Maui, the State of Hawaii and the customers of Wai'ola and MPU that, unless some public or private entity is located to take over the operations of these three companies by the end of August, there will probably be an unavoidable termination of services to those customers. Wai'ola and MPU and Mosco are ready to cooperate fully in

the surrender or transfer of their certificates, and in any transfer of the assets of the companies. [Emphasis added.]

C.

Initiation of Docket

On June 16, 2008, the commission opened this docket to provide any required temporary rate relief to the Utilities.²

In the Opening Order, the commission explained:

[T]o address the Utilities' alleged financial inability to continue utility services beyond August 2008, the commission deems it necessary in these exigent circumstances to initiate, sua sponte, this proceeding to provide temporary rate relief to the Utilities. The rate increases approved herein are to provide only temporary relief to the Utilities, until the County or a third party is ready to take over the Utilities' systems. Thus, the rate increases approved herein shall be effective for a period of six (6) months from the date of an order by the commission approving the increases; unless otherwise ordered by the commission.

The commission is also concerned about the effect the temporary rate increases will have on ratepayers. Nonetheless, given the circumstances, the commission has no choice but to take the unprecedented step of opening this proceeding and ordering temporary rate increases to ensure the continuation of water and wastewater utility services that are vital to the health and welfare of the residents of West Molokai.³

²Order Instituting a Proceeding to Provide Temporary Rate Relief to Molokai Public Utilities, Inc., Wai'ola O Molokai, Inc., and Mosco, Inc., filed on June 16, 2008, in Docket No. 2008-0115 ("Opening Order").

³Id. at 12-13.

Based on the commission's review and analysis of the Utilities' available financial information -- specifically, the most recent Annual Financial Reports the Utilities filed with the commission -- the commission proposed the following temporary rate relief for MPU and Wai'ola: (1) for MPU, an increase in revenues of \$297,965, which is 40.95% more than its 2007 reported water revenues of \$727,458; and (2) for Wai'ola, an increase in revenues of \$163,839, which is 121.50% more than its 2007 reported water revenues of \$134,813. The commission proposed a 0.00% increase over present rates for Mosco, as Mosco appeared to be financially viable and operating at a profit.

The commission named as parties to this proceeding: the Utilities, the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), MPL,⁴ and the COUNTY OF MAUI ("County") (collectively, "Parties").⁵ The commission allowed the Parties to file comments on the proposed temporary rates within five days of the date of the Opening Order.

⁴MPL initially contested the commission's jurisdiction in a letter filed on June 18, 2008. In that letter, MPL informed the commission that it would not be participating in this docket, as "[t]he proceeding is one involving the Utilities, not MPL." Letter filed on June 18, 2008 from MPL to the commission, at 2. By order issued on June 23, 2008, the commission directed MPL to participate in this proceeding. Thereafter, on July 14, 2008, MPL filed a "Motion to Modify Order of June 23, 2008 Directing Molokai Properties, Ltd. to Participate in Docket No. 2008-0115" ("Motion to Modify"). By order issued on August 8, 2008, the commission denied the Motion to Modify, construing it as a motion for reconsideration, and determining that it was untimely under Hawaii Administrative Rules ("HAR") § 6-61-137.

⁵The Consumer Advocate is an ex officio party to any proceeding before the commission. See Hawaii Revised Statutes ("HRS") § 269-51; HAR § 6-61-62.

D.

Consumer Advocate's Statement of Position

Consistent with the commission's Opening Order, on June 23, 2008, the Consumer Advocate filed a Statement of Position ("CA's SOP"), wherein the Consumer Advocate stated:

[T]he Consumer Advocate is in a very difficult situation with regards to the proposed temporary rate increases. On one hand, as the Commission acknowledged, the ratepayers of MPUI and Wai'ola may be hard pressed to pay the rates that will be imposed as a result of the proposed temporary rate increases, thereby impairing their ability to pay for the regulated water service from MPUI and Wailola [sic]. On the other hand, if the proposed temporary rate increases are not granted in a timely manner, the Utilities may very well terminate service due to their alleged financial hardship. In both situations, the ratepayers may be without a utility service that is deemed essential to public health and welfare.

. . . [W]hile the Consumer Advocate would prefer to carefully review the proposed rate increase and ensure that the rates are just and reasonable, there is insufficient time to gather the data necessary to perform such review

As a result, the Consumer Advocate reluctantly will not oppose the proposed temporary rate increases for MPUI and Wai'ola. Although the Consumer Advocate is extremely concerned about the ratepayers' ability to pay the increased rates, the Consumer Advocate recognizes that the proposed rate increases are expected to remain in effect for only six months. In addition, the Consumer Advocate believes that allowing the proposed rate increases to take effect as recommended by the Commission will help to ensure the continuation of the regulated water service beyond the targeted August 31, 2008 termination date and provide additional time to explore options for ensuring the continuation of the regulated

utility service should the Utilities proceed with their plans to terminate their business operations.⁶

In addition, the Consumer Advocate recommended that, during the six-month period while temporary rates are in effect, the commission require the Utilities to provide monthly data at the end of each month to allow the Consumer Advocate and the commission to monitor and assess the financial impacts of the proposed rate increases on the Utilities and their ratepayers.

E.

County's Response to Opening Order

On June 24, 2008, the County filed a response to the commission's Opening Order ("County's Response"), wherein the County asserted several legal arguments that it has no legal duty to take over the Utilities' systems, and that regulation of utilities is a State, rather than a County, concern. The County further maintained that, although a rate increase may be warranted, the Utilities have provided insufficient information for the County to determine whether increased rates are justified. The County therefore requested the commission to subpoena the Utilities' records and investigate each of their respective operations in detail.⁷

⁶CA's SOP at 3-4.

⁷On July 9, 2008, the County filed a Request for Issuance of Subpoenae and Subpoenae Duces Tecum, requesting that the commission issue subpoenas to compel the attendance of witnesses at the commission's public hearing scheduled for July 15, 2008, and that the commission issue subpoena duces tecum to compel the production of documents by those witnesses at the July 15, 2008 public hearing. By letter dated July 11, 2008, the commission

F.

Utilities' Proposed Rates

On June 25, 2008, the Utilities filed a response to the commission's Opening Order, wherein the Utilities stated that the commission's proposed temporary rates were "insufficient by a significant amount and will not meet the stated purpose of the [Opening] Order[.]"⁸ Using a different method for calculating temporary rates than the commission used, which appeared to be based on water or wastewater usage, the Utilities, in sum, proposed the following rates for each Utility:

Wai'ola	\$5.15 per 1,000 gallons
MPU	\$6.04 per 1,000 gallons
Mosco	\$52.56 per month

Regarding the proposed rate for Mosco, the Utilities explained:

Although it has been alleged that Mosco is operating with sufficient return to prevent a loss, the actual costs of operating Mosco, if it were not part of a larger operation, would be significantly higher. As you are aware, Mosco is currently the beneficiary of a savings in operating cost due to shared staffing and operational expenses between the three companies

clarified the purpose of the public hearing (i.e., that it was not intended to be a forum for the Parties to question each other, but instead, to gather public comments on the docket). Thus, the commission declined to issue the County's subpoenas, but stated that it would entertain another, revised request, by the County. The County has not re-filed such a request.

⁸Letter filed on June 25, 2008, from the Utilities to the commission, at 1.

Should Mosco be operated as a separate entity it would have an additional increase in operating expense such that it would suffer approximately a \$35,000 annual loss equating to losses [sic] of \$3000 per month.⁹

In addition to the proposed rates, the Utilities suggested that the following operational costs and losses be considered by the commission in calculating temporary rates for the Utilities: (i) costs to litigate the issue of water allocation from Well 17 and environmental costs associated with the transmission of water through the Molokai Irrigation System ("MIS");¹⁰ (ii) a fuel surcharge to account for volatile energy costs; (iii) a decrease in revenues due to a cutback in usage when rates increase; (iv) a capital reserve fund in the event of a system breakdown; and (v) rent for usage of MPL's assets in furnishing utility service.

G.

Public Hearing

On July 15, 2008, the commission held a public hearing in this docket at Maunaloa Elementary School, Maunaloa,

⁹Id. at 2.

¹⁰According to the Utilities, a recent Hawaii Supreme Court decision vacated MPU's allocation of water from Well 17 that was previously granted by the Commission on Water Resource Management. In addition, MPU's agreement with the Department of Agriculture ("DOA") to transmit water through the MIS has expired and the DOA has taken the position that a new agreement cannot be entered into without the completion of an Environmental Assessment. See id.

Molokai, Hawaii.¹¹ At the hearing, the commission presented the commission's proposed rates to the public, and also briefly explained the Utilities' proposed rates. The commission allowed each Party to make a presentation at the hearing. It also heard testimony from the public regarding the proposed rate increases.¹² In addition, the commission received numerous written comments from the public in this docket.

H.

Final Statements Filed by Parties

The commission allowed the Parties to conduct discovery and file Statements of Position or Statements of Probable Entitlement by August 7, 2008. On August 6 and 7, 2008, the Utilities, the Consumer Advocate, and the County filed letters, outlining their respective positions in this docket, discussed below.¹³

¹¹Prior to the public hearing, the commission held an informal status conference with the Parties on July 2, 2008. At the status conference, Mr. Daniel Orodener, who was at the time an officer of all three Utilities, represented that, assuming MPU and Wai'ola are granted temporary rate increases, Mosco would not require any increase in its current rates. This statement was later confirmed: (i) by MPL in its Motion to Modify; (ii) in a letter dated August 6, 2008 from the commission to Mosco; and (iii) in the Utilities' final statement on temporary rates filed on August 7, 2008, discussed below.

¹²The deadline to file motions to intervene or participate in this proceeding was ten days after the public hearing, or on July 25, 2008. See HAR § 6-61-57(1). West Molokai Association ("WMA") timely filed a motion to intervene, but by order issued on August 8, 2008, the commission denied intervention to WMA. No other motions to intervene or participate were filed.

¹³MPL did not file a statement by the August 7, 2008 deadline.

Utilities

In the Utilities' August 7, 2008 letter, they first addressed the commission's proposed rates for Wai'ola, asserting that the commission utilized financial information for calendar year 2007 "which does not give a true picture of the current losses or the rate necessary to break-even."¹⁴ According to the Utilities, MPL provided financial information for fiscal year 2007-2008, which is more accurate and takes into account recent increases in energy costs and decreases in water usage due to a curtailment of Molokai Ranch activities. The Utilities "re-emphasize that we believe the break-even rate, not taking into account energy cost increase in the past weeks . . . is \$5.15 per 1000 gals supply."¹⁵

Regarding MPU, the Utilities stated that the commission's proposed rates do not include an expense for "purchased water." As with Wai'ola, the Utilities maintained that the financial information used by the commission for calendar year 2007 does not accurately reflect current utility costs for MPU. The Utilities therefore restated their position that the appropriate break-even rate for MPU is \$6.04 per 1,000 gallons.

¹⁴Letter filed on August 7, 2008, from the Utilities to the commission, at 1.

¹⁵Id. at 2.

For Mosco, the Utilities represented:

[W]e re-iterate that so long as Waiola and MPU are in operation the efficiencies enjoyed by Mosco with shared employees and equipment will result in the PUC proposed rate being sufficient to cover expenses. If and when Mosco has to operate as a stand-alone entity, the costs of operation will significantly increase and the noted higher rate will be required.¹⁶

The Utilities again requested that the commission consider implementing an energy surcharge to account for expected increases in energy costs, and an operating fund to account for unforeseen capital expenses.

2.

Consumer Advocate

In the Consumer Advocate's August 7, 2008 letter, the Consumer Advocate stated that it has not been provided with sufficient information to assess the reasonableness of the Utilities' proposed rates. The Consumer Advocate noted that, although information was provided by the Utilities on June 25, 2008 and on July 7, 2008, the information was not of a quality that is required to perform an independent review of the reasonableness of the proposed rates. Thus, according to the Consumer Advocate, it is unable to determine whether the expenses upon which the Utilities' proposed rates are based reflect normalized ongoing expenses, or whether the rates will generate sufficient revenues to cover the projected expenses as proposed by the Utilities.

¹⁶Id.

Furthermore, the Consumer Advocate stated:

[I]t must be recognized that all business entities experience ongoing changes in the level of sales and expenses that are incurred. As a result, ratemaking is not about providing dollar-for-dollar recovery of the expenses incurred by a public utility or guaranteeing the utility a given level of net income. Rather, ratemaking is about setting rates that are intended to provide an opportunity to recover a "reasonable," "normalized" level of expenses, and earn a return on investment.

. . . [T]he purpose of the temporary rate increase is not to make the utilities whole by providing for dollar-for-dollar recovery of the expenses incurred, and would be incurred if any of the utilities were a "stand alone" entity. Rather the proposed rates are intended to merely provide additional financial resources to enable the utilities to minimize the losses that are currently being incurred and thus continue operations beyond August 31, 2008 for a limited time period.¹⁷

The Consumer Advocate ultimately maintained its position set forth in the CA's SOP, with the same reservations discussed in the SOP, and stated that it does not oppose the commission authorizing the commission's proposed rates in the Opening Order on a temporary basis.

3.

County

On August 6, 2008, the County filed a letter, advising the commission that its "position in this docket has not

¹⁷Letter filed on August 7, 2008, from the Consumer Advocate to the commission, at 2.

changed."¹⁸ In its letter, the County re-stated and incorporated by reference its statements of position made in the County's Response, filed on June 24, 2008.

II.

Temporary Rate Increases

Pursuant to HRS § 269-16, the commission is authorized to regulate the rates, charges, and practices of a public utility:

- (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility or by two or more public utilities jointly shall be just and reasonable and shall be filed with the public utilities commission
- (b) No rate, fare, charge, classification, schedule, rule, or practice, . . . shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission as prescribed in section 269-12(b), and prior approval by the commission for any increases in rates, fares, or charges.

HRS § 269-16(a) and (b). In addition, under HRS § 269-16(c), the commission may in its discretion, after public hearing, "authorize temporary increases in rates, fares, and charges; provided that the commission shall require by order the public utility to return, in the form of an adjustment to rates,

¹⁸Letter filed on August 6, 2008, from the County to the commission, at 1.

fares, or charges to be billed in the future, any amounts with interest, at a rate equal to the rate of return on the public utility's rate base found to be reasonable by the commission, received by reason of continued operation that are in excess of the rates, fares, or charges finally determined to be just and reasonable by the commission."

After a thorough review of the entire record (and as explained by the commission at the public hearing on this matter), the commission notes that the Utilities' proposed revenue requirements are actually not that different from those proposed by the commission. Rather, the Utilities' proposals were based on a different method of calculation and on information that was not available to the commission at the time it proposed temporary rates in the Opening Order. Based on the record before the commission now, and given that the rates are only intended to be a temporary stop-gap measure to ensure the continuation of essential water and wastewater services to the Utilities' customers, the commission finds reasonable under the circumstances to adopt the Utilities' proposed temporary rate increases for MPU and Wai'ola, subject to the conditions set forth below.

Thus, MPU's rates shall be temporarily increased from \$3.18 per 1,000 gallons to \$6.04 per 1,000 gallons, which is projected to result in additional annual revenues of \$398,687; and Wai'ola's rates shall be temporarily increased from

\$1.85 per 1,000 gallons to \$5.15 per 1,000 gallons, which is projected to result in additional annual revenues of \$156,710.¹⁹ The rate increases shall take effect on September 1, 2008, and shall continue for a period of six months, terminating on February 28, 2009, unless otherwise ordered by the commission. MPU and Wai`ola shall promptly file revised tariff sheets with the commission that reflect the foregoing rate increases.

Based on the commission's findings in its Opening Order regarding the financial viability of Mosco, and on the Utilities' and MPL's representations that Mosco does not require a rate increase,²⁰ the commission approves a 0.00% rate increase for Mosco.

During the period while the temporary rates are in effect, all three Utilities shall file, within thirty days after the close of every month, monthly financial reports with the commission, with a copy served on all Parties, which shall include, but not be limited to, the following information:

- a. current customer counts for the Utilities;

¹⁹Based on the temporary nature of the rates, in approving the rate increases for MPU and Wai`ola, the commission does not expressly approve the customer usage and expense amounts offered by the Utilities. Moreover, the commission declines to approve any higher rates for MPU and Wai`ola based on the additional cost considerations put forward by the Utilities. The rates are intended to be temporary, the additional expense items are unsubstantiated in the present record, and the commission will be able to monitor these items via the monthly financial and status reports that the commission is requiring the Utilities to file, as discussed below.

²⁰See supra note 11.

- b. copies of the billing records illustrating the volume of water consumed per customer, the revenues billed for such usage, and the payments made by each customer; and
- c. documentation supporting the Utilities' claimed operating expenses.

All three Utilities shall file bi-weekly status reports with the commission, with copies served on all Parties, addressing the status of transitioning the ownership and/or operation of the Utilities to another private or governmental entity.

Within six months of the date of this Order, MPU and Wai'ola shall file an application for a general rate increase with the commission if a third-party is not found to take over the Utilities' systems.

As discussed in the Opening Order, opening this docket was an unprecedented step for the commission. Generally, rate cases are initiated by the utilities the commission regulates, and they usually take months to resolve to allow the Consumer Advocate and the commission time to conduct an extensive review of a utility's rate proposals. However, this situation was different in that the commission was informed this past March of the planned termination of the Utilities' services. Given this urgent situation, and to ensure the continuation of the Utilities' services, which are truly vital to the health and welfare of Molokai residents, the commission approves the temporary rate relief herein to MPU and Wai'ola.

The commission re-emphasizes that the rate increases approved herein are to provide only temporary relief to MPU and Wai'ola, until a third party is ready to take over the Utilities' systems, or until MPU and Wai'ola file applications for general rate increases. The commission is also concerned about the effect the temporary rate increases will have on ratepayers. Nonetheless, given the circumstances, the commission has no choice but to take the unprecedented step of ordering temporary rate increases to ensure the continuation of water and wastewater services for the residents of West Molokai.

III.

Orders

THE COMMISSION ORDERS:

1. The commission approves a temporary rate increase for MPU from \$3.18 per 1,000 gallons to \$6.04 per 1,000 gallons.
2. The commission approves a temporary rate increase for Wai'ola from \$1.85 per 1,000 gallons to \$5.15 per 1,000 gallons.
3. No rate increase is approved for Mosco.
4. The temporary rate increases for MPU and Wai'ola approved herein shall take effect on September 1, 2008, and shall continue for a period of six months, terminating on February 28, 2009, unless otherwise ordered by the commission.
5. MPU and Wai'ola shall promptly file revised tariff sheets with the commission that reflect the temporary rate increases approved herein.

6. During the period while the temporary rates are in effect, all three Utilities shall file, within thirty days after the close of every month, monthly financial reports with the commission, with a copy served on all Parties, which shall include, but not be limited to, the following information:

- a. current customer counts for the Utilities;
- b. copies of the billing records illustrating the volume of water consumed per customer, the revenues billed for such usage, and the payments made by each customer; and
- c. documentation supporting the Utilities' claimed operating expenses.

7. All three Utilities shall file bi-weekly status reports with the commission, with copies served on all Parties, addressing the status of transitioning the ownership and/or operation of the Utilities to another private or governmental entity.

8. Within six months of the date of this Order, MPU and Wai'ola shall file an application for a general rate increase with the commission if a third-party is not found to take over the Utilities' systems.

9. Should the commission issue a final Decision and Order in this proceeding where the amount collected pursuant to these temporary rate increases is in excess of the increase determined by the final Decision and Order to be just and reasonable, the difference shall be refunded to the ratepayers, together with interest as provided by HRS § 269-16(c).

10. Failure to comply with any of the foregoing conditions may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii AUG 14 2008.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

2008-0115.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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